

STATE OF RHODE ISLAND
DEPARTMENT OF ADMINISTRATION
DIVISION OF CAPITAL PROJECTS
&
PROPERTY MANAGEMENT
CONTRACTORS' REGISTRATION BOARD
PERFORMANCE AUDIT
September 2005



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUREAU OF AUDITS
One Capitol Hill
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September 14, 2005

Robert Brunelle, Associate Director
Department of Administration
Division of Capital Projects and Property Management
One Capitol Hill
Providence, Rhode Island 02908

Dear Mr. Brunelle:

The Bureau of Audits (the Bureau) completed a performance audit of the Contractors' Registration Board in accordance with Rhode Island General Laws (RIGL) § 35-7-3 and § 35-7-4 entitled, "*Biennial inspections by department of administration*" and "*Periodic audits by the department of administration*," respectively.

The Bureau discussed the findings and recommendations included herein with you and your management team in a closing meeting on June 23, 2005 and considered your comments in the preparation of the report. In accordance with standard procedure, the Bureau requested that you provide a response to the findings and recommendations in this report. Your response is included in the report.

In accordance with RIGL § 35-7-4, the Bureau will review the Contractors' Registration Board's corrective action plan within six months from the date of issue of this report.

Sincerely,

H. Chris DerVartanian, CPA
Chief, Bureau of Audits

HCD

**CONTRACTORS' REGISTRATION BOARD
PERFORMANCE AUDIT**

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CONTRACTORS' REGISTRATION BOARD PERFORMANCE AUDIT

EXECUTIVE SUMMARY

The Bureau of Audits conducted a performance audit of the Contractors' Registration Board (the "Commission") as outlined in the Objectives, Scope, and Methodology section of this report. The audit focused on evaluating the practices and procedures employed by the Commission in administering its statutory responsibility with the objective of highlighting opportunities for improved efficiency and effectiveness. The audit covered the fiscal year ended June 30, 2003 and, the period July 1, 2003 to November 15, 2004.

The Commission, established in 1989, is an operating unit within the State Building Code Commission, which is part of the Department of Administration's Division of Capital Projects and Property Management. The Commission is responsible for registering and licensing commercial roofers, registering residential and commercial contractors, and licensing home inspectors. In addition, the Commission is responsible for safeguarding consumers' rights related to contracted improvements to their property through the claims and dispute resolution process. The Executive Director of the Commission reports to both the State Building Code Commissioner, and the State Contractor's Registration Board (the "Board"). The Board acts as an appellate board and sets the rules, regulations, and policies of the Commission. The Board, in accordance with Rhode Island General Law (RIGL) § 5-65-14, consists of thirteen unpaid members, of which two positions were unfilled at the date of this report and the terms of ten of the members had expired; yet they continued to serve. Discussions with both State Building Code Commissioner and the Executive Director of the Commission revealed that their efforts to address the board membership appointments have been unsuccessful. Accordingly, the Bureau of Audits recommends that the Commission again provide the Director of Administration with a summary of the current board vacancies and a list of those members currently serving on extended terms and request appointments in accordance with the applicable statutes.

As stated above, the Commission is responsible for the registering of all contractors, the licensing of all home inspectors, and the registering and licensing of all commercial roofers. However, the Commission has not implemented programs for licensing commercial roofers, registering commercial contractors, or licensing home inspectors. These statutory requirements were designed to safeguard the public and to provide a fair and positive environment for the construction industry. Accordingly, the Commission must implement programs immediately to meet its statutory and regulatory licensing and registration requirements.

Finally, the Commission issues pre-numbered registration cards to each individual who registers as a contractor and pays the required fee. The Commission lacks a database of the numbers of the registration cards that have been distributed or a database of those cards that were voided. The Commission must implement policies and procedures to ensure that control is maintained over the pre-numbered registration cards.

INTRODUCTION

Objectives, Scope, and Methodology

The Bureau conducted a performance audit of the Contractors' Registration Board (the "Commission") for the fiscal year ended June 30, 2003 and for the period July 1, 2003 to November 15, 2004. The objectives were to evaluate the adequacy and effectiveness of managerial controls, the economy and efficiency of operations, and compliance with significant laws and regulations applicable to the Commission.

The Bureau performed the audit in accordance with the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors. The audit evaluated the practices and procedures used by the Commission in administering their operations. The purpose was to review Commission practices and procedures and recommend improvements for efficiency, and to identify any significant noncompliance with applicable state or federal laws. To achieve these objectives, the audit reviewed relevant policies and procedures, state laws and regulations, interviewed responsible staff, and performed tests of the records and such auditing procedures considered necessary in the circumstances.

The Bureau discussed the findings and recommendations included herein with management and considered their comments in the preparation of this report. RIGL § 35-7-4(c) entitled, "*Periodic audits by the department of administration*" states "*Within sixty (60) days following the date of the audit of each state department or agency, the director of the department or agency audited shall respond in writing to all recommendations made by the bureau of audits...*" Accordingly, management submitted its response to the audit findings and recommendations on September 1, 2005, and this response is included in this report.

Background

In 1989, the Commission was established in accordance with RIGL § 5-65 *et al* setting forth its responsibility for registering and licensing commercial roofers, registering residential and commercial contractors, and licensing home inspectors. The Commission is also responsible for safeguarding consumers' rights related to contracted improvements to their property through the claims and dispute resolution process.

The Commission, as of April 1, 2004, through Executive Order 04-04 is an operating unit within the State Building Code Commission, which is part of the Division of Capital Projects and Property Management, Department of Administration and was established via Executive Order 04-04. In accordance with this recent reorganization, the Executive Director of the Commission reports directly to the State Building Code Commissioner and the State's Contractor Registration Board. The Board acts as an appellate board and sets the rules, regulations, and policies of the Commission. The Board, in accordance with RIGL § 5-65-14, consists of thirteen unpaid members, of which two

positions were unfilled at the date of this report and the terms of ten of the members had expired; yet they continued to serve.

Prior to 2001, both residential contractors and commercial roofers were required to register with the Commission. In 2001, the State's legislature expanded the statutory responsibility of the Commission to include the licensing of home inspectors, the licensing of commercial roofers, and the registering of commercial contractors.

The following is a summary of activity related to contractor registration for Calendar Years from 2001 through November 3, 2004:

Activity	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Registered Contractors	8,938	9,222	9,544	11,111
Unregistered Detected	128	143	134	116
Non-Renewals	891	961	1,202	782
Claims Filed	349	315	438	417
Registrations Suspended / Invalidated	48	66	45	104
Administrative Hearings	154	87	104	191
Remanded to Courts	31	17	76	64
Cases Closed	347	298	286	351

As stated in the Executive Summary section of this report, the Commission has not implemented programs for registering commercial contractors, licensing home inspectors, or licensing commercial roofers. The renewal for these licenses and registrations, after the programs are put into effect, will be every two years. The Commission estimates that, upon full implementation of the aforementioned programs, there will be an additional 3,000 contractor's registered, an additional 150 home inspectors licensed, and an additional 80 commercial roofers licensed resulting in the collection of an additional \$400,000 over the subsequent two year period.

FINDINGS AND RECOMMENDATIONS

REGISTRATION AND LICENSING REQUIREMENTS

Contractor Registration

RIGL § 5-65-3(a) entitled, “*Registration for work on a structure required of contractor – Issuance of building permits to unregistered or unlicensed contractors prohibited – Evidence of activity as a contractor – Duties of contractors,*” states “A person shall not undertake, offer to undertake, or submit a bid to do work as a contractor on a structure or arrange to have work done unless that person has a current, valid certificate of registration for all construction work issued by the board.” The aforementioned statute reflects a revision that the legislature enacted in 2001 requiring that all persons who act as contractors, both residential and commercial, obtain a valid certificate of registration issued by the Commission. Prior to 2001, only residential contractors were required to obtain the certificate of registration.

While the Commission registers contractors that perform residential work, it does not register contractors that perform commercial work. The Commission has not implemented a program to issue certificates of registration to commercial contractors which is in violation of its statutory mandate. Additionally, in the absence of a registration process consumers are unable to take action against unregistered commercial contractors. This is in conflict with the Commission’s mission of safeguarding consumer rights. Finally, the absence of a registration process denies the State the opportunity for collecting revenues associated with registrations and renewals.

RECOMMENDATION

1. The Commission must implement procedures to ensure the registration of all contractors. Resources to implement this plan should be provided to the Commission whereby revenues for the state can be generated and consumer rights safeguarded.

Home Inspection Licensing

RIGL § 5-65.1-7(a) entitled, “*Applicability,*” states “*Any person who conducts a home inspection as defined by this chapter shall be licensed pursuant to this chapter, and comply with all the requirements of this chapter and any subsequent rules or regulations promulgated by the board.*” The legislature enacted this statute on July 1, 2001.

To date, the Commission has not implemented a program for the licensing of home inspectors that is in violation of its statutory mandate. Consumers will be able to take action against unlicensed home inspectors when a licensing process is in place, and this will enable the Commission to achieve its mission of safeguarding consumer rights.

Finally, the opportunity for collecting revenues for the State of Rhode Island has been lost as a result of the program having not been implemented.

The auditors noted that the Commission's website includes a link to the Home Inspector's webpage which in turn contains a link to the following two web pages: (1) "*Check a Contractor's Record*" and (2) "*View the Unregistered Contractor's List*." Because these links pertain to registered contractors – not home inspectors – they might be confusing or misleading to a consumer using the website.

RECOMMENDATIONS

2. The Commission should implement procedures to ensure that all home inspectors are licensed. Resources to implement this plan should be provided to the Commission whereby revenues for the state will be generated and consumer rights safeguarded.
3. The Commission should modify its web page to clarify that the links provide information related to contractors and not home inspectors. It may require that a choice be provided to the webpage user with two separate and distinct links—contractors and home inspectors.

Commercial Roofing Contractors Licensing

RIGL § 5-73-3(a) entitled, "*Registration and licensing of roofing contractors*," states "*All roofing contractors, in addition to the requirements of chapter 65 of this title entitled 'Contractor's Registration', if applicable, prior to conducting roofing business in the state of Rhode Island, shall first submit an application to and be licensed by the contractor registration board on the form or forms that the board requires...*" The legislature enacted this on July 1, 2001. Prior to July 1, 2001, the Commission was solely responsible for issuing certificates of registration to commercial roofing contractors.

While the Commission is responsible for registering and licensing commercial roofing contractors, it has not implemented a program for licensing them. By not implementing a program to license commercial roofing contractors, the Commission is not only in violation of its statutory mandate but has lost an opportunity to collect revenues for the State of Rhode Island.

RECOMMENDATION

4. The Commission must implement procedures to ensure that all commercial roofing contractors are licensed. Resources to implement this plan should be provided to the Commission whereby revenues for the state will be generated and consumer rights safeguarded.

BOARD APPOINTMENTS

The Board acts as an appellate board and sets the rules, regulations, and policies of the Commission. In accordance with RIGL § 5-65-14(a) entitled, "*Builder board – Member – Terms – Confirmation – Vacancies – Qualifications*," states "*The Board shall consist of thirteen (13) members appointed by the governor, eight (8) of whom shall be registered contractors, of which two (2) shall be licensed roofers; one shall be a current member of the building codes standards committee pursuant to § 23-27.3-100.1.4; one shall be a representative of the general public; one shall be a licensed and practicing architect; and two (2) shall be licensed home inspectors. The building code standards committee member shall be designated by the state building commissioner, and shall be appointed as provided in subsection (b) of this section. This board shall report to the state building commissioners department...*" RIGL § 5-65-14(b) states "*Before the expiration of the term of a member, the governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment immediately effective for the unexpired term. At the expiration of their terms, members shall remain and shall continue in their official capacity until a new member is appointed and confirmed.*"

The auditors noted that only one member of the 13-member board is serving under a current appointment and two of the board positions are currently vacant. The statute states that the governor is to appoint a successor prior to the expiration of the term of the member of the board. In situations where a timely appointment cannot be made the statute allows members to continue serving in their capacity until a new member is confirmed. This provision is not intended as a means to avoid the statutory responsibility. The board is critical to the operations of the Commission in that it acts as the appellate board and an advisory board to the unit. Discussions with both the State Building Code Commissioner and the Executive Director of the Commission revealed that their efforts to address the board membership appointments have been unsuccessful.

RECOMMENDATION

5. The Executive Director of the Commission should provide the Director of Administration with a summary of the current board vacancies and a list of those members currently serving on extended terms, and request appointments in accordance with the applicable statutes.

PRE-NUMBERED REGISTRATION CARDS

In accordance with the process for registering contractors, the Commission issues pre-numbered registration cards to each individual who registers as a contractor and pays the required fee.

The audit revealed a lack of control over the distribution of pre-numbered registration cards. Specifically, the Commission does not maintain a database of the distributed registration card numbers or a database of voided cards. As a result, the Commission has very little, if any, control to ensure that cards are not issued to unauthorized contractors. In addition, because the pre-numbered cards are not recorded, they cannot be matched to cash receipts. Therefore, there is little, if any, control to prevent a contractor from obtaining a registration card without the proper payment for such registration.

RECOMMENDATION

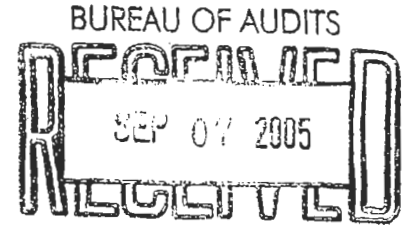
6. The Commission must establish a procedure to account for pre-numbered registration cards and to ensure that evidence of payment is traceable.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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September 1, 2005



H. Chris DeVartanian, CPA
Chief, Bureau of Audits
Department of Administration
One Capitol Hill
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RE: Draft Audit Report/Contractors' Registration Board/August 5, 2005

Dear Chris:

Pursuant to RIGL Section 35-7-4(c) a review of the audit, conducted by the Bureau, and recommendations proposed to the Board has transpired and the following is the response in writing as required:

- The Rhode Island Contractors' Registration Board performance audit fiscal year ended June 30, 2003 and the period July 1, 2003 to November 15, 2004.
- Contact person: Robert Brunelle, Associate Director Department of Administration, Division of Capital Projects and Property Management (401) 222-8207.

RECOMMENDATION #1: The Commission must implement procedures to ensure the registration of all contractors. Resources to implement this plan should be provided to the Commission whereby revenues for the State can be generated and consumer rights safeguarded.

RESPONSE: Accepted, will perform duties and responsibilities provided sufficient staff and resources are set forth as recommended. We planned to have this in operation by year's end! However, with the recent passage of the budget, no new resources have been provided as requested so it may be delayed until fiscal year 2006/2007 or until a supplement to this years budget is provided.

RECOMMENDATION #2: The Commission should implement procedures to ensure that all home inspectors are licensed. Resources to implement this plan should be provided to the Commission whereby revenues for the State will be generated and consumer rights safeguarded.

RESPONSE: Accepted and this program will be initiated when funds have been provided or if a 3rd party agency can legally assist the Board with this requirement.

RECOMMENDATION #3: The Commission should modify its web page to clarify that the links provide information related to contractors and not home inspectors. It may require a choice be provided to the web page user with two separate and distinct links, contractors and home inspectors.

RESPONSE: Partially accepted, in that the program has yet to be instituted. A preview of proposed rules and regulations has been provided to get both consumer and potential licensees input and comments. Changes have already been made to the web site in the interim to better reflect information regarding new programs and clarify links to contractors. When the program is instituted the ability to look up a licensed home inspector will be available to users providing a safeguard to consumers in the selection of a home inspector. The web page user will have separate and distinct links, contractors licensing, registration and home inspectors.

RECOMMENDATION #4: The Commission must implement procedures to ensure that all commercial roofing contractors are licensed. Resources to implement this plan should be provided to the Commission whereby revenues for the State will be generated and consumer's rights safeguarded

RESPONSE: Accepted and this program will be implemented upon proper funding. We are currently registering, however, may license if and when resources become available or when a 3rd party outsourcing is declared feasible.

RECOMMENDATION #5: The Executive Director of the Commission should provide the Director of Administration with a summary of the current board vacancies and a list of those members currently serving on extended terms and request appointments in accordance with the applicable statutes.

RESPONSE: Accepted and all but two vacancies have been filled by the Governor. The two open positions are new positions established last year increasing the Boards current size to (13) from (11). The process to appoint members was previously directed to the Governor's office, but certainly as recommended, may be directed through the Director of Administration in the near future (August 2005) to assure those terms which expire in September are filled as well as the two vacant positions.

RECOMMENDATION #6: The Commission must establish a procedure to account for pre-numbered registration cards and to ensure that evidence of payment is traceable.

RESPONSE: Partial Acceptance. Currently cards are pre-numbered, but in the future a picture ID system may be implemented. Cards are put into the system presently by registration number. Efforts may be made to add the card control number to the voucher screen for processing. This should be completed within the next month on the counter, but may take longer in batches and require computer reprogramming. Currently evidence of payment is traceable to registration numbers, batch numbers or voucher numbers to ensure accountability.

It has been a pleasure working with your staff! They have been thoroughly professional in evaluating our operations and making recommendations that will help our agency to better serve and protect the public.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Z. Brunelle".

Robert Brunelle
Associate Director
Division of Capital Projects & Property Management